

PERSONNEL ADMINISTRATIVE INSTRUCTIONS

Subject: Substance Abuse Policy

I. GENERAL: This instruction establishes the guidelines for administering a substance abuse policy for city employees. This policy applies to all city employees. Specific job assignments dictate the type of testing required.

II. APPLICABILITY: All employees are prohibited from possessing or using alcohol and illegal drugs on the job, reporting to work and being at work under the influence of same, and the operation of motor vehicles while under the influence of same. The city also prohibits the manufacture and unauthorized distribution of drugs and alcohol on the job and on city premises. In addition, federal law (Omnibus Transportation Employee Testing Act of 1991 and Federal Motor Carrier Safety Regulations) requires the city to test for the illegal use of alcohol and controlled substances all employees required to drive commercial motor vehicles and required to obtain a commercial driver's license.

III. EMPLOYEE TRAINING AND EDUCATION: The city shall provide a minimum of 60 minutes of training on this policy and the specific physical behavioral performance indicators and symptoms of drug and alcohol abuse for all city employees who are required to drive commercial motor vehicles and are required to have a commercial driver's license and their supervisors. Training on the city's substance abuse policy will be made available to all interested employees. In addition, each employee who completes the training will be asked to sign and acknowledgement that they have read and understand this policy and the city's intent to conduct drug and alcohol testing.

IV. TYPES OF TESTING:

There are six types of tests: Reasonable Suspicion, Post Accident, Return-to-Duty, and Follow-Up testing, to which all employees may be subject, Pre-Employment testing for all persons offered employment in safety sensitive positions and Random testing for all employees in positions requiring a commercial driver's license. Detailed information about each follows. All testing shall be conducted by a laboratory approved by the city.

A. Reasonable suspicion: If the department head or supervisor has reasonable suspicion that an employee is under the influence of alcohol or illegal drugs on the job, or if the employee appears to be impaired, or if a driver is performing or is about to perform safety-sensitive functions within four (4) hours after using alcohol off-duty, the department head or supervisor shall investigate the situation and may require that the employee be tested. The determination that reasonable suspicion exists must be based on observations concerning the appearance, behavior, speech, or body odors of the employee. The observations in drug cases may also include indications of the chronic and withdrawal effects of controlled substances.

1. The department head or supervisor shall interview the employee if practical. It is recommended that a second person who observed this behavior be present at the interview.
2. If the investigation supports the reasonable suspicion, the department head or supervisor shall notify the Director of Human Resources to coordinate the appropriate testing.
3. The supervisor shall document in writing the facts supporting reasonable suspicion that the employee is under the influence of alcohol or drugs.
4. The supervisor shall arrange to have the employee transported to the city's designated Medical Officer for appropriate testing.
5. If the employee refuses to be tested, the supervisor shall remind the employee that they are required to submit to testing under this policy and refusal to do so could result in disciplinary action. If the employee continues to refuse, he/she shall not be forced to be tested but shall be immediately relieved from duty and sent or transported home. The refusal of an employee to submit to a reasonable suspicion test within 24 hours of such a request may comprise insubordination and may be the basis of disciplinary action, up to and including dismissal.

B. Pre-Employment: All persons offered employment with the city in the positions identified below shall be required to undergo testing for controlled substances. Those who test positive shall be denied employment. Those who refuse to be tested shall be denied employment. Persons employed in any positions below shall not be allowed to conduct CDL related duties until receipt of their negative test results.

1. Employees who operate a commercial motor vehicle owned or leased by the city and who are subject to the commercial drivers' license requirements;
2. Employees who will be driving, on a regular basis, motor vehicles and motorized equipment (excluding occasional users of automobiles and light trucks), including, but not limited to, trucks, tractors, backhoes, etc., and all employees involved in the repair and maintenance of motor vehicles and equipment owned and operated by the city;
3. Uniformed police employees, police cadets, auxiliary police officers, public safety dispatchers, and public safety dispatcher trainees;
4. Uniformed fire and rescue division employees and volunteers engaged in fire suppression or emergency medical service delivery;
5. Safety-sensitive positions identified in writing by both the Director of Human Resources and the Director of Risk Management;

6. Current employees who transfer from a non-sensitive position into a safety-sensitive position;

7. Employees working in a safety-sensitive position on the effective date of this policy and who continue to work in a covered position do not require a pre-employment test.

C. Post Accident:

1. For the purposes of these procedures, “accident” is defined as follows: An occurrence involving a motor vehicle operating on a public road, private road, or on city property which results in:

a. A fatality; or

b. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

c. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle;

2. As soon as practicable following an accident, the city shall test for alcohol and controlled substances each surviving driver:

a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or

b. Who receives a citation for a moving traffic violation arising from the accident.

3. The testing of non-commercial motor vehicle drivers following an accident may be waived by a supervisor if the initial investigation has ruled out the possible use of alcohol or illegal drugs.

4. Time limits for testing and appropriate record-keeping:

Alcohol Testing:

If the testing required by this section is not administered within two (2) hours following the accident, the supervisor shall prepare a and maintain on file a record stating the reasons why the test was not promptly administered. If the test is not administered within

eight (8) hours following the accident, the city shall not administer the test and shall maintain the same record.

Substance Testing:

If the testing required by this section is not administered within thirty-two (32) hours following the accident, the city shall not administer a controlled substances test, and shall prepare and maintain a record stating the reasons the test was not promptly administered.

D. Random Testing: Beginning January 1, 1995, a minimum of twenty-five percent (25%) of the number of employees who operate a commercial motor vehicle owned or leased by the city and who are subject to the commercial drivers' license requirements shall be randomly tested for alcohol, and minimum of fifty percent (50%) of those same employees shall be randomly tested for drugs.

1. The random alcohol and controlled substances tests conducted under this section shall be unannounced and the dates shall be spread reasonably throughout the calendar year.

2. Each driver who is notified of selection for random alcohol and/or controlled substances testing will proceed to the test site immediately and follow established procedures for testing.

3. A driver shall only be tested for alcohol and controlled substances:

- while the driver is performing safety-sensitive functions;
- just before the driver is to perform safety-sensitive functions; or
- just after the driver has ceased performing such functions.

4. A driver shall not be permitted to perform safety-sensitive functions for a minimum of twenty-four (24) hours following the administration of a random test, if such test results indicate an alcohol content of 0.02 or greater. A driver with a test result of 0.04 or greater shall be considered in violation of this policy and shall be handled according to the guidelines in Section V, C, 1-4 of this instruction.

E. Return-to-Duty: Provided the employee has not been dismissed, before any employee returns to duty after engaging in conduct prohibited by this policy the following applies:

1. After engaging conduct prohibited by this policy concerning alcohol, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

2. After engaging in conduct prohibited by this policy concerning illegal drugs, the employee shall undergo a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use.

F. Follow-up Testing: Employees in violation of this policy and referred to a substance abuse professional are subject to follow-up testing. Following a determination by a substance abuse professional that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or controlled substances, the employee shall be subject to unannounced follow-up alcohol and/or controlled substance testing for up to twenty four (24) months as directed by a substance abuse professional following the employee's return to duty provided the employee has not been dismissed.

In addition, the federal law mandates the following requirements for drivers of commercial motor vehicles only:

1. Follow-up testing shall be conducted just before, during, or just after the driver performs safety-sensitive functions.
2. The number and frequency of testing shall be as directed by the substance abuse professional, and consist of at least six (6) tests in the first twelve (12) months following the driver's return to duty. The employee shall be subject to unannounced follow-up alcohol and/or controlled substance testing for up to sixty (60) months from the date of the driver's return to duty.
3. The substance abuse professional may terminate the requirement for follow-up testing at any time after the six (6) tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

V. HANDLING SUSPECTED VIOLATIONS:

A. Supervisory Responsibility: Department heads and/or supervisors shall discuss any case of suspected violation of this policy with the Director of Human Resources or their designee as soon as practical. Department heads and supervisors are responsible for identifying and documenting instances of unacceptable work performance, patterns of inadequate or deteriorating work performance, and abnormal behavior suggesting that an employee may have a drug or alcohol problem. Department heads and/or supervisors who fail to take appropriate action to detect and/or properly deal with substance abuse by employees under their supervision will themselves be subject to disciplinary action, up to and including termination.

B. Employee Responsibility: Employees who have a substance abuse problem are encouraged to seek assistance and are at liberty to do so through the city's Employee Assistance Program or a provider of their choice. However, an employee whose substance abuse problem or impairment poses risk of harm or damage to himself/herself, fellow employees, the public, or city or private property, is obligated to notify his/her supervisor immediately. Employees whose positions have been designated as safety-

sensitive shall be relieved from duty until it is medically certified that they are fit for return to duty, regardless of whether they have sought or are receiving assistance for a substance abuse problem.

C. Personnel Actions:

1. A positive drug or alcohol test and/or refusal to be tested may be grounds for disciplinary action. Violations of this policy related to alcohol or illegal drugs are covered by the normal disciplinary policies contained in Chapter II of the Personnel Policies Manual.

2. Actions such as reporting to work under the influence of alcohol or illegal drugs and using alcohol or illegal drugs on the job are considered misconduct and may be disciplined as such. However, a first time offense, when no other misconduct is involved and the employee otherwise has a satisfactory record of job performance and conduct may, at the discretion of the department head after considering all relevant factors including the seriousness of the offense, be handled as a medical matter rather than as a disciplinary matter. In cases which are handled as medical matters, the employee shall be referred to a substance abuse professional pursuant to Section V, D. The employee shall be subject to return-to-duty testing and periodic unannounced follow-up testing as outlined in Section IV, E and F. Any future drug or alcohol misconduct will be handled in accordance with the city's personnel policies, will require mandatory referral to a substance abuse professional and may result in disciplinary action up to and including dismissal.

3. If an employee independently admits to a drug or alcohol problem and there have been no related misconduct or job performance problems, the employee shall be referred to a substance abuse professional pursuant to Section V, D, 1.

4. If an employee refuses to submit to a test required under this policy, the employee may be subject to disciplinary action up to and including dismissal. In cases of reasonable suspicion, refusal to consent to a test shall be used as supporting evidence for disciplinary determinations. See also Section IV, A, 5, for refusal to take a reasonable suspicion test.

5. Any refusal or failure to cooperate fully in drug and alcohol tests, any behavior which makes testing more difficult, or any action to alter or attempt to alter the test result may result in disciplinary action up to and including dismissal.

6. When referral is made to a substance abuse professional in lieu of disciplinary action and the employee does not satisfactorily participate in the recommended treatment, does not cooperate or does not successfully complete the treatment, the employee may be subject to disciplinary action up to and including dismissal.

7. If an employee is referred to the substance abuse professional and the conduct or performance problems continue, appropriate personnel action may be taken.

8. Off-the-Job Misconduct: An employee may be subject to disciplinary action up to and including dismissal if the employee commits off-the-job misconduct associated with alcohol or illegal drug use which affects the employee's effectiveness, credibility or ability to fully carry out the responsibilities of the position held. Such cases will be handled on an individual basis. The employee may be subject to periodic unannounced follow-up testing under Section IV, F, and may be referred to a substance abuse professional pursuant to Section V, D-1.

D. Referral, Evaluation, and Treatment:

1. Referral for evaluation and possible treatment does not circumvent disciplinary action for violations of this policy. Employees suspected of violating this policy, provided they are not being dismissed, shall be advised by the city of resources available to them for evaluation and resolution of problems associated with the misuse of alcohol and/or substance abuse. This will typically be provided by the city's Employee Assistance Program. (See Chapter Six, Section XI, pg. 10 for referral process.)

2. Employees suspected of violating this policy, providing they are not dismissed, shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs to resolve his/her alcohol/substance abuse related problems.

3. Employees who are dismissed as a result of violating this policy shall be provided with a list of community resources available to them for evaluation and resolution of problems associated with the misuse of alcohol and/or substance abuse.

4. This referral process shall not apply to applicants who refuse to submit to a pre-employment controlled substances test or who have a positive pre-employment test for controlled substances.